

Section 2d of the Retailers' Occupation Tax Act requires persons engaged in the business of selling motor fuel at retail to prepay a portion of the Retailers' Occupation Tax to his distributor or supplier. See, 86 Ill. Adm. Code 130.551. (This is a GIL.)

November 22, 1999

Dear Mr. Xxxxx:

This letter is in response to your email to Director Bower dated November 1999. The nature of your inquiry and the information you have provided require that respond with a General Information letter, which is designed to provide general information, is not a statement of Department policy and is not binding upon the Department. See 2 Ill. Adm. Code 1200.120 (b) and (c), enclosed.

In your email, you state:

In an attempt to save one of my business ventures I am asking you and the IDOR to consider prepaid sales tax on cigarettes and alcohol. I am currently in the cigarette business in COUNTY and have been so for over 15 years. Since those early days, there have been a plethora of 'cigarette stores' opening and stealing the business from honest retailers. I say this based on the economics of the cigarette business. One can't lease a store for \$1200.00/month and sell 300-500 cartons/wk. and make any money unless that person is not paying the sales tax. I know your office is aware of this 'skimming' but does not have the resources to combat this problem. I am only trying to inform your office that as cigarette and alcohol prices increase so does the amount of sales tax collected by the state. These increases entice 'entrepreneurs' to enter these businesses in order to take advantage of these sales tax collection snafus. By simply paying a portion of the sales tax to the wholesaler these collection problems would be lessened. I know the IDOR floated this idea a number of years ago in the liquor business but their lobby in Springfield defeated that idea. I believe it is time to reconsider this bold revenue collecting idea once again. Stop the cheating!!!!

We appreciate the information you have provided to us. The Department of Revenue devotes as many of its resources as possible to prevent evasion of tax in the area of cigarette, liquor and motor fuel sales. As you are well aware, evasion issues trigger extensive regulation of sales of these types of items.

One method of addressing sales tax evasion, at least in the area of motor fuel, has been the imposition of prepaid tax obligations. Legislation mandating prepayment of sales tax on motor fuel was first passed in 1983. Legislation mandating prepayment of sales tax on liquor and cigarette sales, however, has not been successful. In 1991, Senate Bill 2148 was proposed, which would have required prepaid sales tax to be made on sales of liquor. This bill, however, was defeated. In 1992, the same idea was again proposed (Senate Bill 1952), with the same result.

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Imposition of prepaid sales tax obligations is certainly one way to confront evasion of sales taxes on cigarettes. As your letter indicates, this is an important issue, both because those who evade tax divert business from honest retailers who pay their taxes, and because evasion results in loss of tax dollars to the State of Illinois. We encourage you to contact your legislators to discuss the ideas you have mentioned. In addition, if you possess specific information regarding businesses that are not properly paying sales tax on their cigarette sales, we urge you to provide that information to us. We would be happy to pass this information along to our Audit Bureau, so that it may make an investigation.

We hope that this information has been helpful. If you would like to provide with further information, please contact me at the address listed above.

Very truly yours,

Jerilynn T. Gorden  
Senior Counsel

Enc.